

IN THE CHANCERY COURT FOR SHELBY COUNTY, TENNESSEE
THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

STATE OF TENNESSEE, *ex rel.* ROBERT)
E. COOPER, JR., Attorney General and)
Reporter,)

Plaintiff,)

v.)

No.)

JURY DEMAND

PATRICK & PATRICK, LLC, a for-profit)
Tennessee limited liability company doing)
business as PATRICK & PATRICK)
LOSS MITIGATION SERVICES, LLC)
and as an "Independent VRTMG Agent" of)
VR TECH MARKETING GROUP, LLC;)
and DENISE PATRICK also known as)
SONDRETTE D. PATRICK, individually)
and doing business as PATRICK &)
PATRICK LOSS MITIGATION)
SERVICES, LLC and as an "Independent)
VRTMG Agent" of VRTECH)
MARKETING GROUP, LLC,)

Defendants.)

**STATE OF TENNESSEE'S MOTION FOR
TEMPORARY INJUNCTION AND ASSET FREEZE**

The State of Tennessee ("State"), through its Attorney General and Reporter, Robert E. Cooper, Jr., and on behalf of and at the request of Mary Clement, Director of the Division of Consumer Affairs of the Tennessee Department of Commerce and Insurance, moves this Court pursuant to Tenn. Code Ann. § 47-18-108(a) of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. § 47-18-101 *et seq.*, and pursuant to Tenn. Code Ann. § 23-3-103(c)(1) and (c)(3) of the Unauthorized Practice and Improper Conduct Statutes, Tenn. Code Ann. § 23-3-101 *et seq.*, for a statutory injunction temporarily enjoining Defendant Patrick & Patrick, LLC, also

doing business as Patrick & Patrick Loss Mitigation Services, and Defendant Denise Patrick, also known as Sondrette D. Patrick (collectively “Defendants”), and any and all officers, directors, employees, agents, parents, affiliates, successors and assigns, and other persons in active concert or participation with Defendants who receive notice of the temporary injunction, from engaging, directly or indirectly, in any acts which are unlawful, misleading, unfair or deceptive to consumers or other persons, including, but not limited to, the following until an order granting or denying a permanent injunction is entered:

- (1) Defendants shall be strictly prohibited from engaging in any unfair or deceptive acts or practices in the conduct of trade or commerce and shall fully comply with all applicable provisions of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. § 47-18-101 *et seq.*
- (2) Defendants shall be strictly prohibited from offering, in any manner, or conducting the services of a credit services business within the State of Tennessee, without first registering a bond fully consistent with the provisions of Tenn. Code Ann. § 47-18-1011.
- (3) Defendants shall be strictly prohibited from engaging in law business in the State of Tennessee.
- (4) Defendants shall be strictly prohibited from violating the Unauthorized Practice and Improper Conduct statutes, Tenn. Code Ann. § 23-3-101 *et seq.*
- (5) Defendants shall be strictly prohibited from violating the Tennessee Home Solicitation Act, Tenn. Code Ann. § 47-18-701 *et seq.*

Without limiting the scope of paragraphs (1)-(5) above,

- (6) Defendants shall be strictly prohibited from representing that services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship approval, status, affiliation or connection that such person does not have, in violation of Tenn. Code Ann. § 47-18-104(b)(5).
- (7) Defendants shall be strictly prohibited from representing that services are of a particular standard, quality or grade, if they are of another, in violation of Tenn. Code Ann. § 47-18-104(b)(7).

- (8) Defendants shall be strictly prohibited from representing that a consumer transaction confers or involves rights, remedies, or obligations that it does not have or involve or which are prohibited by law, in violation of Tenn. Code Ann. § 47-18-104(b)(12).
- (9) Defendants shall be strictly prohibited from accepting fees or any monetary payment from consumers prior to full completion of the promised foreclosure rescue or credit repair services.
- (10) Defendants shall clearly and conspicuously disclose what services are actually to be provided to the consumers before requiring consumers to sign any paperwork or require any monetary payment.
- (11) Defendants shall be strictly prohibited from making consumers sign waivers of their right to cancel the contract.
- (12) Defendants shall be strictly prohibited from failing to implement a refund policy such that Defendants must provide a full refund to consumers if Defendants fail to provide the services that they represented they would provide.
- (13) Defendants shall be strictly prohibited from failing to clearly and conspicuously disclose up-front, including but not limited to advertisements in any medium, on their website, when talking to consumers on the telephone, and when soliciting consumers in-home, that they require a fee or other monetary payment to be paid in order to receive Defendants' services, the amount of the fee, and exactly what services the fee covers.
- (14) Defendants shall be strictly prohibited from representing that they are certified to provide foreclosure assistance or housing counseling unless or until Defendants are in fact certified by the proper authorities.
- (15) Defendants shall be strictly prohibited from giving any legal advice or counseling regarding any secular law topic including but not limited to bankruptcy and foreclosure actions.
- (16) Defendants shall be strictly prohibited from failing to timely and fully comply and cooperate with the Attorney General's Office when information is sought pursuant to state law, regulation or rule.

II. The State further moves that Defendants, their officers, directors, employees, agents, successors and assigns, and other persons in active concert or participation with the

Defendants who receive actual notice of the this temporary injunction, shall affirmatively be required to do the following until an order granting or denying a permanent injunction is entered:

- (1) Defendants shall turn over and/or provide all consumer records, files and documents of Defendants relating to Tennessee consumers or any consumers who have received services from Defendants to Jennifer E. Peacock, Assistant Attorney General, by delivering the files and/or documents during regular business hours between 8:00 a.m. and 4:30 p.m. (Central) to the Consumer Advocate and Protection Division, Tennessee Attorney General's Office, 425 Fifth Avenue North, Nashville, Tennessee 37243 by no later than five (5) calendar days following entry of the Court's Order. These records shall be treated as confidential and afforded all protections to protect the privacy of consumers in credit related records.

ASSET FREEZE

III. In order to preserve funds for consumer restitution and/or disgorgement of ill-gotten gains and in direct advancement of the State's police and regulatory power, civil law enforcement authority, and the purposes of the Tennessee Consumer Protection Act identified at Tenn. Code Ann. § 47-18-102, including allowing the State to provide for the protection of consumers and legitimate business enterprises from those who engage in unfair or deceptive acts or practices, the advancement of ethical standards of dealing between persons engaged in business, and the maintenance of the integrity of the marketplace in Tennessee as a whole, the State of Tennessee moves as follows:

- (1) Defendants shall be prohibited from liquidating, encumbering, borrowing against, withdrawing, transferring to another company or person or otherwise dissipating the sum of **\$12,682.89**. This sum shall be deposited in a registry account under the care, custody, and control of the Clerk and Master within five (5) calendar days of any order being entered. Should the conclusion of the five day period land on a Saturday or Sunday or state or federal holiday, the Defendants shall make this deposit on the next business day that the Clerk and Master's office is open.

- (2) This sum shall be held *in custodia legis* by the Clerk and Master as described below. The account will be listed as "Monies Held For Potential Consumer Restitution Pursuant to Temporary Injunction Order in the *Case of State of Tennessee v. Patrick & Patrick, LLC and Denise Patrick*."
- (3) The monies shall be placed in a registry account that will bear the highest interest rate.
- (4) The monies shall be held in a registry account of this Court until an Order by this Court expressly stating otherwise.
- (5) Defendants shall be strictly prohibited from transferring or otherwise removing any additional assets or monies from their offices or any bank accounts that contain funds relating to their foreclosure rescue, credit repair, or legal services.
- (6) Further, within five (5) calendar days of entry of this Court's Temporary Injunction Order, Defendants shall be required to affirmatively provide the Court and the State of Tennessee with a detailed accounting of all assets in Defendants' possession relating to Defendants' businesses and a list of all bank accounts, bank addresses, bank telephone numbers and contact names, bank account numbers, and the amounts currently held in those accounts and held since the date Defendants commenced trade or commerce in the state of Tennessee. Said accounting shall be provided along with a sworn affidavit of an officer of each of the Defendants confirming their accuracy and completeness and shall be filed with the Court and a copy shall be provided in the same time frame to Jennifer E. Peacock, Assistant Attorney General, Consumer Advocate and Protection Division, Attorney General's Office, 425 Fifth Avenue North, Nashville, TN 37243.
- (7) The State requests this Court set a hearing immediately following the time period for Defendants to produce financial information to determine whether these additional monies should be added into the court account for possible consumer restitution pending a final determination in this matter.

EXPRESS RESERVATIONS

The State requests that any order issued by the Court expressly reserve for a future hearing a determination regarding the appointment of a receiver for the safekeeping, collection, management, and disposition of property in this litigation.

The State requests that any order issued by the Court expressly reserve for a future hearing a determination regarding an attorneys' fees and costs award to the State relating to the State's Motion for Temporary Injunction, the related hearing, and any order.

PRAYER FOR RELIEF

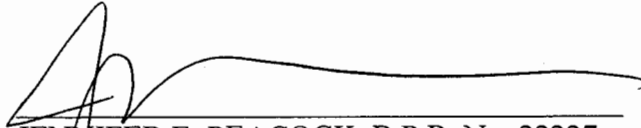
In support of this Motion, the State relies upon the Memorandum of Facts and Law in Support of Motion for Temporary Injunction, the Complaint and attached Exhibit A, the Exhibits attached to this Motion, including the attached Exhibits A-K, and prays as follows:

1. That the Court enter a temporary injunction and asset freeze order consistent with the terms described above and accompanied by findings of fact and conclusions of law.
2. That the Court find that the State has met its burden for a statutory temporary injunction and has demonstrated, based on the materials submitted and arguments of counsel, a substantial likelihood of ultimate success on the merits of its claims under the Tennessee Consumer Protection Act.
3. That the Court find that the State has met its burden for a statutory temporary injunction and has demonstrated, based on the materials submitted and arguments of counsel, a substantial likelihood of ultimate success on the merits of its claims under the Tennessee Unauthorized Practice and Improper Conduct statutes.
4. That the Court order that Defendants shall pay all court costs associated with this Temporary Injunction motion and that no costs shall be taxed to the State as provided by Tenn. Code Ann. § 47-18-108(a)(4).

THIS IS THE FIRST APPLICATION FOR EXTRAORDINARY RELIEF FILED BY THE PLAINTIFF IN THIS CASE.

Respectfully submitted,

ROBERT E. COOPER, JR., B.P.R. No. 10934
Attorney General and Reporter



JENNIFER E. PEACOCK, B.P.R. No. 22227

Assistant Attorney General

JEFFREY L. HILL, B.P.R. No. 16731

Senior Counsel

Office of the Tennessee Attorney General

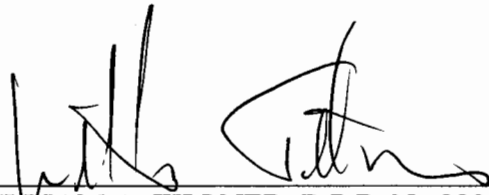
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